



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 21, 1996

Mr. John Steiner  
Division Chief  
City of Austin  
Law Department  
P.O. Box 1088  
Austin, Texas 78767-1088

OR96-2163

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102595.

The Austin Police Department (the "department") received an open records request for all of its records pertaining to a case of suspected suicide, including the "autopsy, toxicology and officer's report." You state that the department did not possess a copy of the autopsy or toxicological reports at the time it received the open records request.<sup>1</sup> You seek to withhold the requested records pertaining to the death that the department does possess pursuant to section 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of *crime*," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to *law enforcement* or prosecution." Gov't Code § 552.108 (emphasis added); see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Although suicide or attempted suicide is not a crime in this state, *but see* Pen. Code § 22.08 (aiding suicide), we note that the department conducted an investigation into the circumstances surrounding the death to determine whether any criminal activity occurred.

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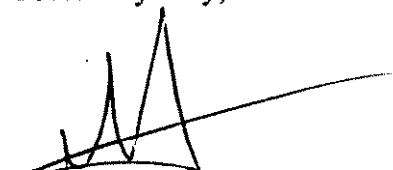
<sup>1</sup>The department need not, therefore, comply with those aspects of the request. See Attorney General Opinion JM-48 (1983) (governmental body not required to comply with request for information to be collected or prepared in the future). We note, however, that autopsy reports are specifically made public information under article 49.25, section 11 of the Code of Criminal Procedure.

We therefore conclude that in this instance the department may withhold from the public most of the information at issue pursuant to section 552.108. *Cf. Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied) ("law-enforcement exception" not applicable where no criminal investigation takes place).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the incident report. Although section 552.108 authorizes the department to withhold the remaining information from disclosure, the department may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/RWP/rho

Ref.: ID# 102595

Enclosures: Submitted documents

cc: Ms. G. Gaye Thompson  
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(w/o enclosures)